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09/915,608	07/26/2001	Nicholas W. Fenton	041892-0217 50R4644.03	6785

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EXAMINER

LE, UYEN T

ART UNIT

PAPER NUMBER

2163

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/915,608

Applicant(s)

FENTON ET AL.

Examiner

Uyen T. Le

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2163

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17,20-39 and 55-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17,20-39 and 55-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's amendment to the specification is acknowledged. Consequently, objection to the specification is withdrawn.
2. Applicant's arguments regarding the drawings are persuasive. Therefore, objection to the drawings is withdrawn.
3. Applicant's amendments to claims 3, 21 are acknowledged. Consequently, rejection to claims 3, 21 under 35 U.S.C. 112, second paragraph is withdrawn.
4. Applicant's request to file a terminal disclaimer if appropriate after an indication of allowance is acknowledged.
5. Applicant's explanation regarding the downloading operation of claim 59 is acknowledged. Consequently, rejection to claim 59 under 35 U.S.C. 112, second paragraph is withdrawn.
6. Applicant points out that claim 14 does not require at least one computer system. The examiner acknowledges that "at least one" has been deleted by the amendment of 31 March 2004. Therefore, rejection to claim 14 under 35 U.S.C. 112, second paragraph is withdrawn.

7. Applicant arguments regarding Barrera et al (US 6,567,800) have been fully considered but they are moot in view of the new grounds of rejection presented in this Office Action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-13, 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrera et al (US 6,567,800) of record, in view of Allen et al (US 2004/0260722).

Regarding claim 1, Barrera discloses substantially the claimed subject matter (see column 5, lines 17-31). The claimed storage device is met by item 506. The claimed display device is shown in Figure 7. The claimed processor is met by item 505. The processor clearly is programmed to perform all the claimed operations since the website contents are correlated with categories, subcategories and stored (see column 3, lines 51-67). Barrera does not specifically show that content items stored on the storage device are added, deleted or modified and in response to addition, deletion or modification of content items, the display is updated dynamically. However, the claimed addition, deletion or modification merely reads on the fact that it is well known in the art as shown by Allen that data stored in databases is changing constantly (see 0033). Therefore, it would have been obvious to one of ordinary skill in the art to include the

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claimed features while implementing the system of Barrera in order to reflect the latest changes as taught by Allen.

Claim 55 essentially recite the limitations of claim 1 without a storage device, thus is rejected for the same reasons stated in claim 1 above.

Regarding claims 2, 56, Barrera discloses sorting the plurality of categories and subcategories into at least one hierarchy and displaying as claimed when Barrera shows the list of identifiers of web sites that correspond to categories (see column 5, lines 17-31).

Regarding claim 3, although Barrera does not specifically show that the graphical index is implemented in Flash, it would have been obvious to one of ordinary skill in the art to do so in order to benefit from readily available memory.

Regarding claims 4, 57 the claimed server network device operating as claimed has to be present for the system of Barrera to allow the operations shown in Figure 6.

Claim 5 merely reads on the fact that the user can view search results on his or her device (see Figure 8).

Regarding claims 6, 58, Barrera discloses the network comprises the Internet and the user interface comprises a website (see Figures 5, 8, 9).

Regarding claim 7, Barrera discloses displaying the graphical index within a web page on the website (see Figure 8).

Regarding claim 8, Barrera discloses the plurality of contents items comprise a web page (see Figure 8).

Regarding claim 9, Barrera discloses each of the plurality of categories and subcategories correspond to metadata when Barrera shows the descriptions corresponding to categories and subcategories (see Figure 7).

Regarding claim 10, the metadata clearly comprises information about at least one of the plurality of content items since it describes the content items (see Figure 7).

Claim 11 is met when Barrera shows keywords (see Figures 7-9).

Claims 12, 13 correspond respectively to a process for the system of claims 1, 2, thus are rejected for the same reasons stated in claims 1, 2 above.

9. Claims 14-17, 59, 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrera et al (US 6,567,800) of record, in view of Allen et al (US 2004/0260722), further in view of Silen et al (US 2002/0116518) of record.

Regarding claims 14, 59, although Barrera and Allen do not specifically show that the processor is programmed to determine the bandwidth capacity and set the parameters on the computer system as claimed, it is well known in the art to do so as shown by Silen (see the abstract, 0010, 0011, Silen). Therefore, it would have been obvious to one of ordinary skill in the art to include the claimed features while implementing the system of Barrera/Allen in order to adapt to existing systems as taught by Silen.

Regarding claims 17, 60, the system of Barera/Allen as modified by Silen discloses parameter of streaming video bit rate (see the abstract, Silen).

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Claims 15, 16 merely read on the fact that the first and second files in Silen are different in size (see 0010, Silen).

10. Claims 20-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrera et al (US 6,567,800) of record, in view of Allen et al (US 2004/0260722), further in view of Mackintosh et al (US 6,317,784) of record.

Regarding claim 20, although Barrera and Allen do not specifically show that the processor generates a first window for presenting a user interface and a second window for advertisement as claimed, it is well known in the art as shown by Mackintosh to display the user interface and advertisements in multiple windows that slide back and forth (see Figures 7, 12, MacKintosh). Since advertisements generate profit, it would have been obvious to one of ordinary skill in the art to include the claimed features while implementing the processor of Barrera/Allen in order to generate profit.

Regarding claim 21, although Barrera/Allen/Mackintosh do not specifically show that the graphical advertising unit includes a Flash format display, it would have been obvious to one of ordinary skill in the art to do so in order to benefit from readily available memory.

Regarding claim 22, although Barrera, Allen and Mackintosh do not specifically show periodically sliding back and forth for a predetermined interval, official notice is taken that it is well known in the art to do so in order to catch viewers' attention. Therefore, it would have been obvious to one of ordinary skill in the art to include the

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claimed features in the processor of Barrera, Allen and Mackintosh in order to catch viewers' attention on the advertisements.

Regarding claims 23, 24, although Barrera, Allen and Mackintosh do not specifically show the claimed period, it would have been obvious to one of ordinary skill in the art to include any period depending on users' applications and requirements.

Regarding claim 25, Mackintosh discloses a series of advertisements (see Figure 7).

Regarding claim 26, Mackintosh discloses a streaming media advertisement (see Figure 12).

Regarding claim 27, the claimed visual display of time measurement within the second window merely reads on the fact that it is well known in the art to advertise a special price for a specific period of time for example sales price for the holiday. Therefore, it would have been obvious to one of ordinary skill in the art to include the claimed features in the system of Barrera, Allen and Mackintosh in order to advertise special sales good only for a determined period of time.

Claims 28, 29 merely read on the fact that it is well known in the art to count down the time left before a sales ends. Therefore, it would have been obvious to one of ordinary skill in the art to include the claimed features in the processor of Barrera, Allen and Mackintosh in order to alert viewers of when a sales ends.

Regarding claim 30, since the second window displays the counter for controlling when to revert to the first counter, clearly the processor has to be programmed to suspend the counter while the user rolls over the second window as claimed.



Claim 31 merely reads on the fact that the windows shown in Figures 7, 12 of Mackintosh can slide back and forth by the control of a user.

Claim 32 is met by the fact that the "buy now" button shown in Figures 7, 12 of Mackintosh is visible from the first window after the second window of advertisement slides back.

Claim 33 merely reads on the fact that the user can select advertisements displayed on Figures 7, 12 of Mackintosh for viewing.

Regarding claim 34, Mackintosh discloses user selectable operator represented by a tab comprising indicia representative of the advertisement (see Figure 7).

Claim 35 merely reads on the fact that a window corresponding to each advertisement in Mackintosh is opened once the user selects that advertisement (see Figure 7).

Claim 36 is met when Mackintosh shows retrieving the URL associated with an item for sale and accessing the supplier's web site (see column 14, lines 20-35).

Regarding claim 37, Mackintosh discloses a third browser window displaying a streaming media advertisement (see Figure 12).

Regarding claim 38, the claimed masking the first and second windows with an opaque layer when the third window is launched merely reads on the fact that once the URL is retrieved, the supplier's web site is accessed to allow on-line purchase (see column 14, lines 22-26, Mackintosh).

Regarding claim 39, Mackintosh discloses suspending all functionality within the first and second windows when the third window is launched when Mackintosh shows accessing the supplier's web site and purchase on-line (see column 14, lines 22-26).

**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Polizzi et al (US 2002/0052954) teach implementing a dynamically updated portal page in an enterprise-wide computer system.

Shivakumar et al, "Wave-Indices: Indexing Evolving Databases", ACM 1997, pages 381-392.

Ester et al, "The DC-Tree: a Fully Dynamic Index Structure for Data Warehouses", Data Engineering, 2000. Proceedings. 16<sup>th</sup> International Conference 29 Feb.-3 March 2000, pages 379-388.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen T. Le whose telephone number is 571-272-4021. The examiner can normally be reached on M-F 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

22 February 2005



UYEN LE  
PRIMARY EXAMINER